

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILL ROBINSON, III,

Plaintiff,

v.

VALLEJO CA POLICE DEPT., et al,

Defendants.

Case No. 2:24-cv-03194-TLN-CSK

FINDINGS AND RECOMMENDATIONS  
TO DISMISS FOR FAILURE TO  
PROSECUTE

Plaintiff Will Robinson, III, proceeding without the aid of counsel, filed this action on November 7, 2024, which was transferred to the Eastern District of California on November 18, 2024.<sup>1</sup> (ECF Nos. 1, 4.) On April 15, 2025, the Court issued an order denying Plaintiff's request to proceed in forma pauperis ("IFP") without prejudice and granting Plaintiff thirty (30) days to submit a new IFP request on a proper form. 4/15/2025 Order (ECF No. 10). On May 5, 2025, the April 15, 2025 Order was returned as undeliverable. See Docket. On July 1, 2025, the Court issued an Order to Show Cause ordering Plaintiff to respond and file an IFP request and update his address with the Court within thirty (30) days from the date of the order. 07/01/2025 Order (ECF No. 11). The July 1, 2025 Order was not returned as undeliverable. See Docket. To date,

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<sup>1</sup> This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. Civ. P. 72, and Local Rule 302(c)(21).

1 Plaintiff has not responded to the Court's orders and has not filed an IFP request. See  
2 Docket. Accordingly, the Court recommends dismissal of this action for failure to  
3 prosecute.

#### 4 **I. LEGAL STANDARDS**

5 Under Federal Rule of Civil Procedure 41, a court may dismiss an action for  
6 failure to prosecute or failure to comply with the Federal Rules of Civil Procedure, the  
7 court's local rules, or any order of the court. Fed. R. Civ. P. 41(b); *see also Ghazali v.*  
8 *Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (approving dismissal under Rule 41(b) for a party's  
9 failure to follow the district court's local rules). This court's Local Rules are in accord.  
10 See E.D. Cal. Local Rule 110 ("Failure of counsel or of a party to comply with these  
11 Rules or with any order of the Court may be grounds for imposition by the Court of any  
12 and all sanctions authorized by statute or Rule or within the inherent power of the  
13 Court."); E.D. Cal. Local Rule 183(a) (providing that a pro se party's failure to comply  
14 with the federal rules, local rules, or other applicable law may support dismissal of that  
15 party's action). The court may act on its own accord in exercising this authority. *Hells*  
16 *Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005)  
17 (approving sua sponte dismissals under Rule 41(b)).

18 The Ninth Circuit has found the following factors relevant in determining whether a  
19 case should be dismissed under Rule 41(b):

- 20 (1) the public's interest in expeditious resolution of litigation;
- 21 (2) the court's need to manage its docket;
- 22 (3) the risk of prejudice to the defendant(s);
- (4) merits the availability of less drastic alternatives; and
- (5) the public policy favoring disposition of cases on their merits.

23 *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019).

#### 24 **II. DISCUSSION**

25 Applying the factors for involuntary dismissal, the Court finds this action should be  
26 dismissed. *See Applied Underwriters*, 913 F.3d at 890. The first two factors weigh in  
27 favor of dismissal because the public has a strong interest in expeditious resolution of  
28 litigation, and Plaintiff has failed to take the steps necessary to move this case forward.

1 In addition, this district court in particular has a strong need and interest in managing its  
2 docket given the extremely high caseload in the Eastern District of California. While the  
3 risk of prejudice to Defendants is somewhat minimal, there is some prejudice given the  
4 impact on resources of stale litigation.

5 As to the fourth factor, the Court has already tried less drastic alternatives.  
6 Specifically, Plaintiff previously missed the deadline to file an IFP request and was given  
7 an opportunity to explain this failure. 07/01/2024 Order. Despite this, Plaintiff has failed  
8 to respond to the Order to Show Cause, file an IFP request, or participate in this  
9 litigation, leaving the Court with little alternative but to recommend dismissal.

10 Finally, as to the public policy favoring disposition of cases on their merits, that  
11 factor is outweighed here. Indeed, it is Plaintiff's own failure to prosecute the case and  
12 comply with the rules that precludes a resolution on the merits.

13 Therefore, after careful consideration, the Court concludes dismissal for failure to  
14 prosecute is appropriate. *See Hells Canyon*, 403 F.3d at 689 (approving court's sua  
15 sponte dismissal under Rule 41(b) for a plaintiff's failure to prosecute or comply with the  
16 Federal Rules of Civil Procedure or the court's orders).

### 17 **III. CONCLUSION**

18 Accordingly, IT IS HEREBY RECOMMENDED that:

- 19 1. Plaintiff's action be DISMISSED; and
- 20 2. The Clerk of Court be directed to CLOSE this case.

21 These findings and recommendations are submitted to the United States District  
22 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
23 14 days after being served with these findings and recommendations, any party may file  
24 written objections with the Court and serve a copy on all parties. This document should  
25 be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any  
26 reply to the objections shall be served on all parties and filed with the Court within 14  
27 days after service of the objections. Failure to file objections within the specified time  
28 may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449,

455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

Dated: August 15, 2025

  
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CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

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